IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Bail Appl..No. 6897 of 2007()

CRIME NO.793/06 OF KOTTARAKKARA POLICE STATION

PETITIONER: ACCUSED

SUDHEER AGED 28 YEARS, SON ATTIL,
RESIDING AT PANCHAYIL VADAKKATHIL,
VAYYAKKAL, VALAKOM VILLAGE, KOTTARAKKARA TALUK.

BY ADV. SRI.JOHNSON GOMEZ

RESPONDENTS: STATE AND DEFACTO COMPLAINANT

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1. THE STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, THROUGH THE SUB INSPECTOR OF POLICE, KOTTARAKKARA POLICE STATION, KOLLAM.

2. HASEENA, AGED 23 YEARS, D/O. RASHEED, KALEEKKAL PUTHEN VEEDU, OZHUKUPARAYKKAL, PARAYAKKONAM, KOTTARAKKARA TALUK.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6897 of 2007

Dated this the 14th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the husband of the defacto complainant. Crime has been registered against the petitioner alleging that he has been guilty of matrimonial cruelty of the culpable variety punishable under Section 498 A I.P.C against his wife, the defacto complainant.

2. The marriage took place on 25.05.03. A child was born in the wedlock on 8.2.05. Crime has been registered on the basis of a private complaint filed by the defacto complainant before the learned Magistrate and referred to the police by the learned Magistrate under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest.

3. The learned counsel for the petitioner prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied that the petitioner can be granted anticipatory bail in the facts and circumstances of this case. In coming to this conclusion I take note of the reality that arrest and detention of the petitioner is likely to mar all possibilities of harmonious settlement of the matrimonial dispute. I do further take note of the fact that the victim has not allegedly suffered

any external injury. Appropriate conditions can of course be imposed in the interests of a fair, efficient and expeditious investigation.

4. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 21.11.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 22.11.07 and 23.11.07 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of 2 months. Subsequently the petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 21.11.2007 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 21.11.07.

(R.BASANT, JUDGE)

rtr/-